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October 4, 2004

HAND DELIVERED

Mr. Arthur L. Williams, Director
Louisville Metro Air Pollution Control District
850 Barret Avenue
Louisville, KY 40204

Re: STAR Program Comments – Informal Public Review Period

Dear Mr. Williams:

LG&E Energy appreciates the willingness of the Air Pollution Control District (APCD) and its staff to give us an opportunity to participate in the review, development and adoption of the Strategic Toxic Air Reduction (STAR) Program. LG&E has been a leader in air pollution control technology and understands the importance of air quality, not only to the public's health, but also to the economic development of the Greater Louisville region.

The STAR Program addresses changes or additions to a number of regulations and is, without question, the largest regulatory package that has been advanced by the Air Pollution Control District. As a result, we find ourselves in the position of asking more questions, rather than providing you with a detailed analysis of the proposed regulations.

At this juncture, we would appreciate additional information from the APCD in order to provide an effective and concise analysis of the effect these regulations will likely have upon our industry and our community. The concerns and comments that we have attached to this letter are intended to provide constructive comments to the program that has been advanced thus far. Rest assured that LG&E fully understands that air quality issues are extremely technical and require a balanced approach in order to achieve the desired goal.

We are confident that, after you and your staff have had an opportunity to address these questions, our technical experts will be in a much better position to respond with suggestions and recommendations that we feel will help develop a balanced air toxic program.

I look forward to working with you in the future.

Sincerely,

Sharon L. Dodson
Director, Environmental Affairs
LG&E Energy LLC

cc: Hon. Jerry Abramson
Mr. Bruce Traughber
Hon. Kelly Downard
Dr. Karen Cassidy
Strategy Committee Members

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STAR Program

Strategic Toxic Air Reduction

Louisville Gas and Electric Company
Questions and Comments – Informal Review Period

October 4, 2004

General Questions

? Why has the concept of an air toxics reduction program changed from its original focus of addressing concerns raised in the West Louisville Air Toxics Study to its proposed form, and what is the rationale for the change.

? Why has the STAR program been expanded to include additional air toxics that were not shown to impact human health in the West Louisville Air Toxics Study?

? Why has the STAR program been expanded to include individuals and businesses that were not shown to impact human health in the West Louisville Air Toxics Study?

? What will be the benefit to air quality or human health for including the additional air toxics beyond those analyzed to impact human health in the West Louisville Air Toxics Study?

? What will be the economic impact for including the additional air toxics beyond those analyzed to impact human health in the West Louisville Air Toxics Study?

Regulation 1.02: Definitions

? Section 1.25 - Why was opacity added to the definition of "emission standard"?

? Section 1.39 - The definition of "modification" refers to changes that **increase** the amount of any air pollutant emitted, but that is not explicitly stated in 5.01 section 1.9?

? Section 1.74 - Why was the word "welfare" added as a definition and so broadly defined?

? General Comment - As defined in 1.02 and in KRS 77, Act is defined as the Clean Air Act of 1963 and all of the amendments made by subsequent enactments; how then can LMAPCD propose new regulations around the EPCRA Act, but place the costs on Title V companies?

Regulation 1.06: Stationary Source Self Monitoring, Emissions Inventory Development, and Reporting

? Section 1 - There will be cases where it is not feasible to install or properly operate in-stack monitors (wet stacks, problems with existing duct –distance too short, etc.). In these cases, alternative monitoring needs to be allowed and clearly stated in the regulation.

? Section 3 - If emission factors do not exist or if a criteria pollutant or HAP does not exist for a given process (emission unit), how should the facility handle the reporting of emissions to the LMAPCD?

? Section 3.1 - Change "**all** hazardous air pollutants" to "**applicable or suspected** hazardous air pollutants (regulated pollutants emitted in greater than *de minimis* quantities)". Emission factors do not exist for all types of processes.

? Section 3.6 - The LMAPCD needs to provide guidance for calculating emissions for industry (especially for moderate and minor sources with limited resources). For example, how does a facility calculate HAP emissions if no AP-42 emission factors exist for a given process? Will stack tests be required if HAPs are suspected, but no AP-42 emission factor exist? How to handle these types of situations should be stated clearly in the regulation.

? Section 4 - How can it be reasonably assumed that all Title V companies are currently collecting the required 2004 detailed data to submit enhanced emissions statements by July 17, 2005 when companies did not participate in this proposed rulemaking and were not aware of any such need for information until September 2004? It is unreasonable to assume that every facility already has all the required data as mandated by this regulation or can perform back calculations for all of 2004. The regulation should be changed to allow companies enough advance notice to collect the appropriate data needed to comply with the reporting requirements.

? Section 4.2.1.1, and 4.4 – Either Section 4.2.1.1 should be deleted and/or the requirements of Section 4.4 that require daily tracking/reporting and maximum hourly and daily rates of each listed TAC for the year 2004 should be deleted. Data that has been collected in 2004 may not include tracking of daily and maximum hourly and daily rates because of the late notice to the facilities. From a practical standpoint, these requirements would require software to track daily and maximum hourly and daily rates that some facilities may not presently maintain or have not been required to maintain.

? Section 4.6 - When will the LMAPCD inform a company that data needs to be submitted? Given the level of detail and broad extent of the data request, how much time will a company be given to comply with requirements?

? General Comment - Why wasn't an exemption written specific to *de minimis* quantities incorporated into these regulations like other states and county programs (e.g.

Michigan, …). As written, the absence of a *de minimis* has far reaching ramifications to numerous facilities that would not necessarily result in better air quality, but rather inefficient use of resources both by the facilities and the LMAPCD.

? General Comment - The LMAPCD should provide to each affected company, data that will be required by emission unit and/or if TAC data is not required for a particular emission unit. Most companies do not have the staff or resources to handle the volume of data collection required by this draft amended regulation as written. Again, guidance needs to be provided by the LMAPCD and facilities need to know the specific (not general requirements) that will be required prior to the approval of these regulations.

? General Comment – The required reporting should not contradict or conflict with the reporting requirements and schedules of existing permits.

Regulation 1.07: Excess Emissions During Startups, Shutdowns, and Malfunctions

? Section 1.2 – This section indicates that "a surrogate emission standard, such as volatile organic compound that would include the toxic air contaminant" (TAC) can be used when an applicable emission standard for TAC is absent. This is duplicative. When emission standards exist for pollutants other than TACs, they should not be randomly substituted to create false emission limits for TACs.

This section indicates that "excess emissions shall also include an appreciable increase in the emissions of a TAC above the routine level of emissions that results from a startup, shutdown, or malfunction" when there is no applicable emission standard. First, this leaves it open for interpretation the definition of "routine level of emissions" and "appreciable increase" and how it should be determined. Second, malfunctions should only be related to "failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner that may result in emissions that exceed an applicable emission standard" as stated in Regulation 1.02 Definitions. Third, there is no common understanding of the term "appreciable." Therefore, there are no excess emissions if the permit limits are not exceeded, even when emissions are above a so-called "routine level of emissions", but lower than the permit limit. This statement, as written, could cause conflict with and be contrary to established permit conditions.

Does the one in a million risk level become the new or amended air emission limit for TACs? Does this standard apply to minor sources, which are exempt from Regulation 5.21 report? How does this relate to hourly limits already in existence due to LMAPCD Regulations 5.11 and 5.12 for Toxic Air Pollutants?

? Section 2.1 - The requirement to remain in compliance with all emission standards during start ups and shut downs should not be a requirement for emission standards that are specifically not applicable during startups and shutdowns or other exempted operational conditions as cited in various regulations. For example, see LMAPCD Regulation 6.07 Standard of Performance for Existing Heat Exchangers Section 3.2 and

LMAPCD Regulation 7.06 Standard of Performance for New Indirect Heat Exchangers Section 4.2 for opacity.

? Section 2.2 - Excess emissions from a process or process equipment due to startup, shutdown or malfunction should not automatically be deemed a violation of the applicable emission standard. Certain considerations should first be made as stated in section 2.3 of this regulation before determination of a violation is made and subsequent enforcement action.

The region 4 CEM Enforcement Plan (CEP) should also be incorporated into this regulation. This is a living EPA endorsed document that presently resides in the EPA Air Enforcement and Compliance website:

(http://www.epa.gov/region4/air/enforce/policy.htm)

This document is meant "to ensure that sources with monitoring requirements are in continuous compliance with emission standards in addition to properly operating and maintaining their facilities and CEMs". Specifically, the guidance document sets target criteria and follow up actions for increasing percent of time out-of-compliance and percent of monitor downtime (starting at 2.0%).

? Section 2.3.5 - When determining whether stopping input feed or shutting down process equipment is completed "as soon as possible", it should be taken into consideration the time it takes facility personnel to investigate the root cause of the malfunction or determine whether the malfunction is actually causing an emission exceedance or whether it is a malfunction of the monitoring equipment and not a true exceedance (for example). The time necessary to stop input feed or shut down processes/pollution control equipment in a manner that will not cause damage to the equipment as well as assure the safety of the facility personnel should also be a consideration.

? Section 2.3.8.3 and 2.3.8.4 - Please provide examples of what would be sufficient evidence to prove that the malfunction was unavoidable as requested in these two sections. These requirements are vague and could be misinterpreted/misunderstood causing an undue amount of paperwork.

Please explain what is meant by the term "properly signed operating logs".

? Section 2.4 – Please explain the purpose for adding the sentence "nothing in this regulation shall be construed to restrict any person from seeking injunctive relief from excess emission".

? Section 2.6.3 - Electronic mail notification date and time should be determined by when the e-mail was sent by the facility not when the e-mail was opened (received) by the recipient at the LMAPCD. Server downtime at LMAPCD and other e-mail

interruptions are out of the control of the reporting facility and should not result in a noncompliant situation or violation.

? Section 3.2 - Please insert that notifications will be made to the District "within 1 hour or **as soon as possible"** for unforeseen shutdowns to allow some flexibility to the facility. One hour is a very short timeframe to coordinate staff in situations that may be staff and labor intensive and this requirement as written is an undue burden that does not create any real benefit in reducing emissions or improving air quality. In the event of an emergency, this short timeframe could also distract personnel when their focus should be directed toward responding to the situation.

? Sections 3.3 and 4.3 – The LMAPCD should specify a different after-hours reporting mechanism than the present method stated in the draft amended regulation. Only one type of report should be required for after-hour reporting to avoid duplicative reporting both through e-mail and phone voicemail. For example, all the information could be given either by e-mail or phone voicemail, but should not be required for both.

? Section 3.4 - Please explain how an unplanned startup can be necessitated by a malfunction. How is an unplanned startup defined?

? Section 3.5.7 - In some cases, excess emissions during a startup or shutdown may be anticipated because of past experiences and as a further complication, may have been caused by various reasons. Hypothetically, a facility may report on the initial notification that excess emissions may be encountered during a startup or shutdown due to past experiences not hardcore data that indicates excess emissions will definitely occur. During the initial notification, the risk of excess emissions may only be a possibility. Therefore, the reason (as required in this section) would be unknown. Considering this, Section 3.5.7 should be an optional item on the initial notification. This information can always be given during follow up reports if not given (or known) at the time of the initial notification.

? Section 3.6.1 - Please provide an explanation of how "process equipment design" and "pollution prevention measures" can be used to reduce emissions during a startup or shutdown that is experiencing excess emissions and in what way this may affect enforceability of this regulation and potential violations.

? Section 3.6.2 - Consideration should be made to allow facilities to operate their equipment during startup and shutdown situations in a manner that is both safe to facility personnel and does not cause damage to the equipment (following equipment manufacturer guidelines for example).

? Section 3.8.5 - The phrase "…the physical and chemical composition and calculated quantity and concentration…" should be changed to read "…the pollutant and calculated quantity, calculated concentration, emissions monitor recording or results of an EPA approved test method …" to allow flexibility for the various types of pollutants and emission limits mandated in the regulations and/or permit (such as opacity).

? Section 3.8.7 - Facilities should not be required to provide this information to the LMAPCD because it will be (and presently is) information already provided to the LMAPCD by the facilities. This is a duplicative reporting requirement for the facility that requires a comprehensive and accumulative data base that should be created and maintained by the LMAPCD (not by the facility). Therefore, this item should be deleted entirely from the regulation.

? Section 4.1 - The phrase "…as promptly as possible, but no later than 1 hour following the start of the malfunction, notify the District…" should be replaced with "…within 1 hour **or as soon as possible** following the start of the malfunction, notify the District…". This allows more flexibility for the facilities to provide all the required information to the LMAPCD in a timely manner. One hour in most cases will not allow enough time to thoroughly investigate the malfunction (or existence of a malfunction or true exceedance). This short time frame for notification could lead to mistakes and/or confusion in reporting and more paperwork if facilities are not given an appropriate time frame to investigate and report during these labor intensive situations. Requiring reporting within 1 hour does not decrease emissions or improve air quality, but rather could increase paperwork and confusion.

The text, "A call placed to the emergency number 911, constitutes notification to the District" should not be removed from the regulation. During a true emergency, fewer phone calls allow facility personnel to focus their attention and effort on minimizing the impact of the event. Calling 911 to notify all the local agencies in an emergency simplifies reporting for the facility. If LMAPCD is experiencing difficulty receiving timely notification of 911 calls, then the LMAPCD and the Emergency Management Agency need to rectify this problem instead of putting an undue burden on the facility during such a labor intensive situation.

? Section 4.2.4 - Consideration should be made for the level of excess emissions, type of excess emissions and the health effects (if any) caused by the excess emissions before requiring a facility to plan and submit information for the shutdown of a process or process equipment. For example, pollutants like opacity are more of an aesthetic requirement rather than a health or environmental based requirement (assuming that particulate matter levels remain in compliance during the opacity exceedance). In many cases, emission levels may only be slightly over the standard and can quickly be returned to a compliant level if the facility is allowed time to investigate and make any necessary operational changes. Therefore, this item should read "The date and time of the beginning of the malfunction and the estimated time before the process or process equipment can be returned to normal operation and the estimated time period during which excess emissions are likely to occur."

? Section 4.2.5 - To allow flexibility for the various types of pollutants and emission limits mandated in the regulations and/or permit (such as opacity), the phrase "…the physical and chemical composition and estimated quantity and concentration of excess emissions for each air contaminant," should be changed to "…the pollutant and

calculated quantity, calculated concentration, emissions monitor recording or results of an EPA approved test method for each air contaminant with excess emissions…".

? Section 4.2.7 - Consideration should be made for the level of excess emissions, type of excess emissions and the health effects (if any) caused by the excess emissions before requiring a facility to plan and submit information for the shutdown of a process or process equipment. For example, pollutants like opacity are more of an aesthetic requirement rather than a health or environmental based requirement (assuming that particulate matter levels remain in compliance during the opacity exceedance). In many cases, emission levels may only be slightly over the standard and can quickly be returned to a compliant level if the facility is allowed time to investigate and make any necessary operational changes. Therefore, this item should be deleted.

? Section 4.3 - Reference to 4.2.7 should be deleted for reasons stated above.

? Section 4.4.1 - Please provide an explanation of how "process equipment design" and "pollution prevention measures" can be used to reduce emissions during a startup or shutdown that is experiencing excess emissions and in what way this may affect enforceability of this regulation and potential violations.

Consideration should be made for the level of excess emissions, type of excess emissions and the health effects (if any) caused by the excess emissions before requiring a facility to plan and submit information for the shutdown of a process or process equipment. For example, pollutants like opacity are more of an aesthetic requirement rather than a health or environmental based requirement (assuming that particulate matter levels remain in compliance during the opacity exceedance). In many cases, emission levels may only be slightly over the standard and can quickly be returned to a compliant level if the facility is allowed time to investigate and make any necessary operational changes.

? Section 4.4.2 - Consideration should be made to allow facilities to operate their equipment during startup and shutdown situations in a manner that is both safe to facility personnel and does not cause damage to the equipment.

? Section 4.6 - The phrase "No later than 1 hour after the excess emissions ended, the owner or operator…" should be replaced with "Within 1 hour **or as soon as possible** after the excess emissions ended, the owner or operator…". This allows more flexibility for the facilities to gather quality information that can be provided to the LMAPCD in a timely manner. This short time frame for notification could lead to mistakes and/or confusion in reporting and more paperwork if facilities are not given an appropriate time frame to investigate and report during these labor intensive situations. Requiring reporting within one hour does not decrease emissions or improve air quality, but rather could increase paperwork and confusion.

? Section 4.7, 4.7.3, 4.7.4, 4.7.5 - These items should be deleted. This is duplicative information that is required earlier in the notification process (see Section 4.2 and Section 4.6 in the draft amended regulation).

? Sections 4.7.6 and 4.7.7 - To avoid unnecessary paperwork, Section 4.7.6 and 4.7.7 can be incorporated into Section 4.8. This combined with the comment above will completely eliminate the need for the entire 15 calendar day notification (all of Section 4.7) making more efficient use of time and resources and still allows the LMAPCD to receive all the information.

? Section 4.8 - This 60 day reporting requirement should only be required for instances where malfunctions "…are of a repetitious nature, or when more than 12 failures of the same or similar pieces of equipment occur in a 12-month period…" and not for every isolated malfunction. Language that presently resides in Section 4.2 of Regulation 1.07 should not be removed (as shown in the draft amended version). Section 4.2 allows for flexibility and allows the LMAPCD to pursue corrections from those facilities that are potentially negligent in their operation. The existing Section 4.2 is consistent with current federal and state requirements for malfunction reporting. Companies are familiar with it and it should be retained. Section 4.8 in the draft amended regulation as written could create a huge paperwork burden both on the facilities and LMAPCD and from a practical standpoint does not reduce emissions. Therefore, the entire Section 4.8 should be eliminated.

? Section 4.8.2 - Facilities should not be required to provide this information to the LMAPCD because it will (and presently is) information already provided to the LMAPCD by the facilities. This is a duplicative reporting requirement for the facility that requires a comprehensive and accumulative data base that should be created and maintained by the LMAPCD. This item should be deleted entirely from the regulation.

? Section 5.1 - Please verify that it will be the responsibility of the facility or their representative to perform the "engineering review and analysis of the cause of the excess emissions and design of modifications to effect compliance with the emission standards." This should not be the responsibility of the LMAPCD.

? Section 5.2 – The reference to the "appropriate penalty for the excess emissions" should be deleted. The statement seems to presume that all excess emissions are subject to a penalty, which is not necessarily correct. Any references to penalties should remain in the enforcement section of the regulations.

? General Comment - Consideration should be made for emergencies in this regulation (events that occur beyond the control of plant operations and equipment dependability, like "acts of nature"). Language related to emergencies should not be removed from Regulation 1.07 as shown in the draft amended version. This is a longstanding provision acceptable under state and federal law.

Regulation 1.20: Malfunction Prevention Programs

? Section 1 – The determination of an "affected facility" should not be entirely left to the discretion of the LMAPCD. More definitive criteria should be developed and written clearly into the regulation, as are described below.

? Section 1.1.1 - The occurrence of limited and isolated malfunctions should not cause an individual facility to enter a "Malfunction Prevention Program". Facilities that experience malfunctions that "…are of a repetitious nature, or when more than 12 failures of the same or similar pieces of equipment occur in a 12-month period…" would be a more appropriate candidate for the "Malfunction Prevention Program". Language that presently resides in Section 4.2 of Regulation 1.07 could serve as a good indication of whether this draft regulation becomes applicable in a given situation. Section 4.2 of the draft amended version of Regulation 1.07 is shown to be deleted. It should not be deleted for reasons given in the comments for draft amended Regulation 1.07 Excess Emissions During Startups, Shutdowns, and Malfunctions.

? Section 1.1.2 - A "Malfunction Prevention Program" should not be required for malfunctions that have not been verified (not for situations in which "…a malfunction involving the process or process equipment **may have** occurred…"). Therefore, this item should be deleted. A "Malfunction Prevention Program" would better serve facilities that have malfunctions that "…are of a repetitious nature, or when more than 12 failures of the same or similar pieces of equipment occur in a 12-month period…".

? Section 1.1.3 - Please explain how "…a malfunction that may become harmful to public health or welfare…" will be determined.

? Section 2 – The applicability of the regulation should be limited to the process equipment that has sustained the repetitious malfunctions. As written, one troublesome piece of equipment triggers the development of a "Malfunction Prevention Program" for the entire facility.

? Section 3.1 - Please explain how long the program will be in affect. This section indicates that the plan will be updated at least every 5 years, which indicates a long term commitment. Some corrections could take considerably less than 5 years to implement. Will a shorter commitment term be allowed for the "Malfunction Prevention Program'?

? Section 3.1.6 - This item may be difficult to address in the program considering that there can be multiple reasons for malfunctions with each having multiple correction possibilities. Therefore, this item should be changed so that it becomes a general statement in the program that the facility will "implement corrective procedures in the event of a malfunction or failure resulting in excess emissions" as opposed to having specifics that may or may not cover every situation and could change often.

Malfunctions should only be related to failures that result in emissions of air contaminants **above permitted emission limitations and not above normal levels** as stated in this regulation. "Normal levels" is not a recognized standard and should not be used.

? Section 3.1.7 - To avoid repeated changes to the "Malfunction Prevention Program", the "Malfunction Prevention Program" should only reference existing facility documents that contain this type of information (such as a CEM QA/QC plan or Standard Operating Procedure) as opposed to incorporating it directly as presently stated in the draft amended regulation.

The time between calibrations, as referenced/stated in the "Malfunction Prevention Program" should not contradict or conflict with already existing regulatory calibration requirements (40 CFR Part 75 requirements for example).

? Section 3.1.9 and 3.1.10 - Please explain the meaning of these items.

? Section 3.2 - The "120 day" and "60 day" requirements should be from the time the **facility receives** notification from the LMAPCD. Often, materials are received from the LMAPCD well after the date on the notification. This reduces the facilities response time and may not allow enough time to address everything thoroughly.

? Section 3.3 - The facility should have at least 60 days to implement the "Malfunction Prevention Program" after receiving notification from the LMAPCD that the "Malfunction Prevention Program" has been approved. As was learned with the Title V permitting process, it is difficult to implement a program immediately when all the final requirements are not necessarily known by the facility until the day the permit (or in this case, the "Malfunction Prevention Program") is received. Sixty days will allow the facility time to get all the requirements in place and assimilate the appropriate personnel to carry out the required tasks. The 60 day implementation period will allow for a smooth transition and give the facility time to fully understand and comply with the requirements as stated in the program.

? Section 3.4 – Will the "Malfunction Prevention Program" be incorporated into the Title V permit? If so, this could make editing the document extremely difficult considering the process this requires and the time this has historically required the LMAPCD to accomplish?

Although a "Malfunction Prevention Program" might be an applicable requirement of the facility's permit, it **must not** be made part of the Title V or FEDOOP permit as text or as an off-permit document. Doing so would severely limit the facility's ability to change or upgrade the program as provided in this section.

? Section 3.5 - Including an "Occupational Safety and Health plan" in the "Malfunction Prevention Program" is inappropriate for this regulation and does not fall under the jurisdiction of the LMAPCD. The LMAPCD does not have delegated authority to implement OSHA requirements and cannot require inconsistent plans.

Regulation 2.08: Emission Fees, Permit Fees, Permit Renewal Procedures, and Additional Program Fees

? Section 1.2 - What specific chemicals are included in "all the single pollutant actual emissions"? To what or which pollutants does this apply?

? Section 2.4 - Does "permits reviewed or issued" apply to permit renewals?

? Section 2.5.1.10 - What is the significance of this change? Does this mean that every small source must pay on every pollutant - even if it is a minor source (<5tpy), emits less than the significance level, and is not subject to NSPS or NESHAP?

? Section 6.3.1.2 – This section states that the District will make available a list of Title V sources, and the percentage of the total for each Title V source. This list should be made available prior to the formal review of this package of regulations.

? General – Emission inventory reports should follow the same (cut-off) reporting criteria that are required for TRI reporting. It is confusing to have different reporting limits.

? General – A statement should be made in the draft regulation that fees do not apply if the source, regardless of it classification (Title V, FEDOOP, etc.), has actual emissions less than 25 tons for criteria pollutants, and HAP emissions less than one ton.

? General - The District has indicated that the fees will increase substantially in 2006 and 2007. The fee structure is unclear and needs to be clearly defined in the draft regulations during the public review process for all years.

Regulation 5.01: General Provisions

? Section 1.6 - What were the criteria used to exempt certain stationary sources as described in 1.6.1-1.6.4?

? Sections 1.9.1 and 1.9.2 - Why was the word potential "increase" in emission deleted for the definition of new or modified process or process equipment? The definition as it stands could be too broadly interpreted for a modified unit.

? Section 3 - Explain the assessment of the regulatory impact on the regulated community and the public including the estimated costs and savings associated with the action, the feasibility of all alternatives considered, and a comparison with any minimum or uniform standards under the Clean Air Act of 1963 as amended by the Clean Air Act Amendments of 1990 or any other federal requirement that justifies the addition of the need to add an all encompassing general duty clause? How will the District enforce the general duty clause?

Regulation 5.11: Standards of Performance for Existing Processes and Process Equipment Emitting Toxic Air Pollutants

? Section 7 - Does this mean that all emission units that previously fell below the significant level must now model to see if they trigger 5.21? If modeling shows that 5.21 is not triggered, will 5.11 be removed for the existing permit?

? General Comment – Regulation 5.11 should be repealed upon approval of the STAR program. These regulations are duplicative and could potentially conflict. As was evaluated and concluded by the State and eventually repealed, this regulation has little or no impact on the emission levels and has consumed significant public and private resources (especially in the Title V permitting process).

Regulation 5.12: Standards of Performance for New or Modified Processes or Process Equipment Emitting Toxic Air Pollutants

? Section 6 - Does this mean that all emission units that previously fell below the significant level must now model to see if they trigger 5.21? If modeling shows that 5.21 is not triggered, will 5.12 be removed for the existing permit?

? General Comment – Regulation 5.12 should be repealed upon approval of the STAR program. These regulations are duplicative and could potentially conflict. As was evaluated and concluded by the State and eventually repealed, this regulation has little or no impact on the emission levels and has consumed significant public and private resources (especially in the Title V permitting process).

Regulation 5.20: Methodology for Determining Benchmark Ambient Concentration of a Toxic Air Contaminant

? Section 2.1.3 - Does this give the LMAPCD the authority to conclude an air contaminant is carcinogenic even after such sources as the National Institutes for Health, EPA and others have not? Is the LMAPCD technically prepared/able to conclude a chemical is carcinogenic even in the absence of definitive conclusions or research made by National Institutes for Health, EPA etc?

? Section 3.2 - What does “representative” mean in this context? How will it be determined whether an alternative concentration is representative of a lifetime cancer risk of one in a million?

? Section 4 - Explain the assessment of the regulatory impact on the regulated community and the public including the estimated costs and savings associated with the action, the feasibility of all alternatives considered, and a comparison with any minimum

or uniform standards under the Clean Air Act of 1963 as amended by the Clean Air Act Amendments of 1990 or any other federal requirement that justifies the addition of the need to add a "noncancer" benchmark determination.

? Section 4.3 - Does this mean that, even though EPA has not published an air standard, the LMAPCD proposes to set one based on an oral dose standard?

? Section 4.6 - What is the information source for the 7-day inhalation NOAEL? Can anybody's study be used?

? General Comment- Why are so many informational sources listed to find out what level is harmful? Hasn't EPA looked at these chemicals? If EPA hasn't determined a harmful level, why do the regulations require manipulating a host of loosely related levels to come up with one? What are the harmful levels? Do we know what levels are in the air? Do we have any reason to believe they are at harmful levels?

? Section 5 - Does this give the LMAPCD the authority to create its own standards after EPA, the National Institute of Occupational Safety and Health, or others have not determined what levels are harmful? Does it give the LMAPCD the authority to change standards already published by EPA and others?

? Section 6 - Where can one specifically locate the current list of the benchmark ambient concentrations that have been developed pursuant to this regulation? The LMAPCD should provide a current list of the benchmark ambient concentrations, averaging times, and referenced source.

Regulation 5.21: Environmental Acceptability for Toxic Air Contaminants

? Section 1.1 - Define the credentials of the LMAPCD staff in order to demonstrate their ability to determine and define best available technology for toxics (T-BAT) and the approach that will be used to understand current technologies, taking into account energy, environmental and economic impacts and health and welfare (as defined in the regulation) benefits. Explain the process to be used to include estimated costs and savings associated with the action, the feasibility of all alternatives considered, and a comparison with any minimum or uniform standards under the Clean Air Act of 1963 as amended by the Clean Air Act Amendments of 1990 or any other federal requirement.

? Section 1.4 - Explain the scientific foundation for the definition of Hazard Quotient (HQ) and other evaluated options and why this quotient was selected.

? Section 1.6 - Define anthropogenic emissions inventory and the credentials of the LMAPCD staff to demonstrate the ability to thoroughly evaluate the cause and effects of such emissions inventories that may adversely affect human health including the estimated costs and savings associated with the action, the feasibility of all alternatives considered, and a comparison with any minimum or uniform standards under the Clean

Air Act of 1963 as amended by the Clean Air Act Amendments of 1990 or any other federal requirement.

? Section 2.2 - For new sources, does the Hazard Quotient value mean that acceptable levels of air contaminants are to be only a fraction of the level at which they are harmful (e.g. 20% or 38% of the harmful level)? How is the "Goal" enforced or used?

? Sections 2.2.3, 2.5.3, & 2.8.2 – Please give an example of how the EAL_c Risk will be calculated for **all** TACs

? Section 2.5.1 - For existing sources, does the Hazard Quotient value mean the District is setting the "Goal" at only one-fifth (20%) of the level considered harmful? How is the "Goal" enforced or used?

? Section 2.5.2 - Does the Hazard Quotient value mean that the District is effectively setting the standard more stringent than published medical studies? (e.g. at 75% of the standards?).

? Section 2.8 - Do equations 5 and 6 consider that maximum concentrations from different sources are likely to occur at different geographic locations?

? Section 3.10 –What resources does the LMAPCD have that will enable the staff to determine how a synergistic or additive toxicological effect may adversely affect human health including the estimated costs and savings associated with the action, the feasibility of all alternatives considered, and a comparison with any minimum or uniform standards under the Clean Air Act of 1963 as amended by the Clean Air Act Amendments of 1990 or any other federal requirement?

Regulation 5.22: Procedures for Determining the Maximum Ambient Concentration of a Toxic Air Contaminant

? Section 2 - What is the origin of Table 1 values and methodology?

? Section 3 - What is the origin of Table 2 values and the methodology?

? Section 3.3.2 – Please define influential building height. Why can't this method be used if the influential building height is more than 100 feet?

? Section 3.3.7 – This section states that, if the stack is not attached to a building, then a building height of 40% of the stack height shall be assumed. If this value is less than 100 feet, can Table 2 be used? Can a source assume a lower (worse case) stack height and a 100 foot building if the actual building height is 40% of the actual stack height?

? Sections 4 & 5 – Why were the Tier 3 and Tier 4 models selected? What other models were reviewed when making this determination?

? General Comment – A de minimis level should be established for modeling purposes. Those who emit very small/insignificant quantities should not be required to go through this labor intensive process. Using a de minimis of 25 tons per pollutant could serve as a reasonable cutoff.

? General Comment – The methodology for determining risk levels is cumbersome. This is especially true for those facilities that are limited in staffing and resources. "Look up tables" should be readily available either on the LMAPCD website or more clearly referenced in the regulation. The "look up tables" must be made available during the public review process in order for facilities to assess their impact and provide more detailed and helpful comments to the LMAPCD.

Regulation 5.23: Categories of Toxic Air Contaminants

? General Comment **–** Please provide an assessment of the regulatory impact on the regulated community and the public of each chemical listed for Category 1, Category 1A, Category 2 and Category 3 Toxic Air Contaminants. At a minimum, include the estimated costs and savings associated with the action, the feasibility of all alternatives considered, and a comparison with any minimum or uniform standards under the Clean Air Act of 1963 as amended by the Clean Air Act Amendments of 1990 or any other federal requirement.

? General Comment - The TRI cut-off limit should be noted. It is confusing to have different reporting limits.

? General Comment – If an industry is regulated or anticipates that it will be regulated for a particular chemical (i.e. Hg) then that federal regulation will preempt 5.23.